

FILED

Gomez v Gonzales 04-76298

MAY 09 2006

THOMAS, Circuit Judge, concurring in part and dissenting in part:

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

I concur in the remand to the BIA to consider deferral of removal under the CAT. I respectfully disagree with the majority's conclusion that the petitioner was statutorily ineligible for asylum and withholding of removal. Unlike the circumstances involved in *Miranda Alvarado*, the record does not support the conclusion that any of the information obtained by the petitioner directly resulted in the persecution of others. Thus, I would grant the petition for review on the asylum and withholding of removal claims, as well as the CAT claim.